



**DEPARTMENT OF TRANSPORTATION**

**4910-9X**

**Office of the Secretary**

**49 CFR Part 23**

**[Docket No. DOT-OST-2021-0113]**

**Petition for Rulemaking; Airport Concession Disadvantaged Business Enterprise (ACDBE)**

**Program**

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Notice of grant of a petition for rulemaking.

**SUMMARY:** This notification grants the petition for rulemaking submitted by the Airports Council International-North America (ACI-NA) requesting that DOT initiate rulemaking to revise and update agency rules pertaining to Participation of Disadvantaged Business Enterprise in Airport Concessions.

**DATES:** [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** National External Operations and Policy Programs, Federal Aviation Administration, 800 Independence Avenue SW, Room 1030, Washington, DC, 20591

**FOR FURTHER INFORMATION CONTACT:** Gene E. Roth, Director, National External Operations and Policy Programs, Federal Aviation Administration, 800 Independence Avenue SW, Room 1030, Washington, DC, 20591, email [gene.e.roth@faa.gov](mailto:gene.e.roth@faa.gov), telephone 202-913-7502; or Marc Pentino, Associate Director, Disadvantaged Business Enterprise Programs Division, Departmental Office of Civil Rights, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, email [marc.pentino@dot.gov](mailto:marc.pentino@dot.gov), telephone 202-366-6968.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 30, 2021 ACI-NA submitted a petition for rulemaking requesting that DOT begin the process necessary to initiate a rulemaking to revise and update 49 CFR Part 23. Specifically, ACI-NA requested that a number of regulatory issues important to airports be addressed to modernize the ACDBE program,

including the definition of concession, the requirements for ACDBE program submittals, and the treatment of long-term exclusive agreements.

DOT plans to initiate a rulemaking to update DOT's Disadvantaged Business Enterprise (DBE) and ACDBE regulations to alleviate burdens for lower-tiered recipients and aviation sponsors to have a DBE program, remove the ACDBE program requirement for non-hub primary airports, modernize the definition of "regular dealer" to reflect changing material handling practices in the field, enhance current requirements to ease the burden on prime contractors in finding competitive and qualified DBE subcontractors, adjust the DBE and ACDBE program personal net worth cap for inflation, formalize guidance establishing successful COVID-19 flexibilities, allow qualified DBEs to work on large multiyear projects, and make technical corrections and other necessary updates. For additional information, see the Department's Spring 2021 Unified Agenda, available at <https://www.reginfo.gov/public/do/eAgendaMain>. Select Department of Transportation from the drop-down menu for the current agenda, and then select RIN 2105-AE98.

## **Conclusion**

Having received this petition for rulemaking related to 49 CFR Part 23, DOT has decided that ACI-NA's petition merits further consideration through the rulemaking process and hereby grants its petition for rulemaking using the existing RIN 2105-AE98.

The granting of the petition from ACI-NA, however, does not indicate that a final rule will be issued as requested by ACI-NA. The determination of whether to issue a rule and the content of the rule is made after the study of the requested action and the various alternatives in the course of the rulemaking proceeding, in accordance with statutory criteria.

Signed in Washington, DC on October 13, 2021

Irene B. Marion  
Director, Departmental Office of Civil Rights  
Department of Transportation

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